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COMMITTEE ON APPLICATIONS FOR REVIEW
OF ADMINISTRATIVE TRIBUNAL JUDGEMENTS
Thirty-seventh session

INFORMATION CIRCULAR

I. DATE AND PLACE OF MEETING

1. The 1st meeting of the thirty-seventh session of the Committee on Applications for Review of Administrative Tribunal Judgements will take place at United Nations Headquarters on Monday, 9 September 1991. The exact time and place of the meeting will be announced in the Journal of the United Nations. The provisional agenda for the session is to be found in document A/AC.86/R.210.

II. MEMBERSHIP OF THE COMMITTEE

2. Under article 11 of the statute of the United Nations Administrative Tribunal (see General Assembly resolution 957 (X) of 8 November 1955), the Committee is composed of Member States the representatives of which have served on the General Committee of the most recent regular session of the General Assembly. The current membership of the Committee therefore comprises the following 29 Member States: Barbados, Brazil, Canada, Chile, China, Congo, Cyprus, Czechoslovakia, Egypt, Fiji, France, Ghana, Greece, Honduras, Indonesia, Lebanon, Malta, Mauritius, Mozambique, Nepal, Rwanda, Saint Lucia, Senegal, Uganda, Union of Soviet Socialist Republics, United Arab Emirates, United Kingdom of Great Britain and Northern Ireland, United States of America and Yugoslavia.

III. PREVIOUS MEETINGS OF THE COMMITTEE AND DECISIONS TAKEN

3. Information concerning previous meetings of the Committee and decisions of the Committee at its first to thirty-sixth sessions is to be found in documents A/AC.86/INF/1-35.

4. At its thirty-sixth session, held on 11 and 12 February 1991, the Committee considered the following applications:

(a) Application of Ms. Silveira for review of Administrative Tribunal Judgement No. 497 - Silveira v. the Secretary- General of the United Nations;

(b) Application of Mr. Lima for review of Administrative Tribunal Judgement No. 487 - Lima v. the Secretary-General of the United Nations;

(c) Application of Mr. Boluda for review of Administrative Tribunal Judgement No. 496 - Mr. B. v. the Secretary-General of the United Nations;

(d) Application of Mr. Liu for review of Administrative Tribunal Judgement No. 490 - Liu v. the Secretary- General of the United Nations;

(e) Application of Mr. Omosola for review of Administrative Tribunal Judgement No. 484 - Omosola v. the Secretary-General of the United Nations;

(f) Application of Ms. Pappas for review of Administrative Tribunal Judgement No. 500 - Pappas v. the Secretary-General of the United Nations.

5. After consideration of the aforementioned applications, the Committee decided that there was not a substantial basis for the applications of Ms. Silveira, Messrs. Lima, Boluda, Liu, Omosola and Ms. Pappas under article 11 of the statute of the Administrative Tribunal and therefore concluded that the International Court of Justice should not be requested to give an advisory opinion in respect of Judgements Nos. 497, 487, 496, 490, 484 and 500.

6. The decisions of the Committee at its thirty-sixth session were formally announced at the meeting of the Committee held in public on 12 February 1991. They are contained in document A/AC.86/43.

IV. PURPOSE OF THE SESSION

A. Application received from Mr. Mohamed L. Fayache

7. On 27 February 1991, the United Nations Administrative Tribunal rendered Judgement No. 507 in the case of Fayache v. the Secretary-General of the United Nations. The official text of the judgement in English and French is to be found in document AT/DEC/507. The judgement was communicated to the parties on 24 May 1991.

8. The application from Mr. Fayache dated 5 July 1991, requesting a review of Judgement No. 507 rendered by the United Nations Administrative Tribunal in the case of Fayache v. the Secretary-General of the United Nations, was received by the Secretary of the Committee on 11 July 1991.

9. On 15 August 1991, after translation of the application of Mr. Fayache into the official languages of the General Assembly, it was communicated in

document A/AC.86/R.206 to all members of the Committee as well as to parties of the proceedings before the Administrative Tribunal, together with a copy of Administrative Tribunal Judgement No. 507 (AT/DEC/507).

10. Commments of the Respondent submitted with respect to the application of Mr. Fayache in accordance with paragraph 1 of article IV of the rules of procedure of the Committee are contained in document A/AC.86/R.207.

B. Application received from Mrs. Lina Hamadeh-Banerjee

11. On 28 February 1991, the United Nations Administrative Tribunal rendered Judgement No. 509 in the cases of Hamadeh-Banerjee v. the Secretary-General of the United Nations. The official text of the judgement in English and French is to be found in document AT/DEC/509. The judgement was communicated to the parties on 29 May 1991.

12. An application from Mrs. Hamadeh-Banerjee dated 11 July 1991 requesting a review of Judgement No. 509 rendered by the United Nations Administrative Tribunal in the case Hamadeh-Banerjee v. the Secretary-General of the United Nations was received by the Secretary of the Committee on the same date.

13. On 15 August 1991, after the application of Mrs. Hamadeh-Banerjee was translated into the official languages of the General Assembly, it was communicated in document A/AC.86/R.208 to all members of the Committee as well as to parties of the proceedings before the Administrative Tribunal, together with a copy of Administrative Tribunal Judgement No. 509 (AT/DEC/509).

14. Comments of the Respondent submitted with respect to the application of Mrs. Hamadeh-Banerjee in accordance with paragraph 1 of article IV of the rules of procedure of the Committee are contained in document A/AC.86/R.209.

C. General provisions

15. The official dossiers of the Administrative Tribunal in the cases of Mr. Fayache and Mrs. Hamadeh-Banerjee are on file with the Secretary of the Committee in room S-3420I and may be examined on request by members of the Committee.

16. Under article 11, paragraph 2, of the statute of the Administrative Tribunal, the Committee shall decide within 30 days from receipt of each of the above-mentioned applications whether or not there is a substantial basis for such applications. If the Committee decides that such a basis exists, it shall request an advisory opinion of the International Court of Justice. Under paragraph 4 of article 11, the Committee is authorized by the General Assembly, for the purposes of the article, to request an advisory opinion of the Court. According to the provisions of article VI of the rules of procedure of the Committee, it shall be convened for the consideration of the application no later than 25 days from the date of the receipt of the

application, which is the date when the copies of the application are communicated to the members of the Committee by its Secretary.

V. TERMS OF REFERENCE AND RULES OF PROCEDURE

17. The terms of reference of the Committee are contained in article 11 of the statute of the United Nations Administrative Tribunal. That article was added to the statute by General Assembly resolution 957 (X) of 8 November 1955. Its text is as follows:

"Article 11

"1. If a Member State, the Secretary-General or the person in respect of whom a judgement has been rendered by the Tribunal (including anyone who has succeeded to that person's rights on his death) objects to the judgement on the ground that the Tribunal has exceeded its jurisdiction or competence or that the Tribunal has failed to exercise jurisdiction vested in it, or has erred on a question of law relating to the provisions of the Charter of the United Nations, or has committed a fundamental error in procedure which has occasioned a failure of justice, such Member State, the Secretary-General or the person concerned may, within thirty days from the date of the judgement, make a written application to the Committee established by paragraph 4 of this article asking the Committee to request an advisory opinion of the International Court of Justice on the matter.

"2. Within thirty days from the receipt of an application under paragraph 1 of this article, the Committee shall decide whether or not there is a substantial basis for the application. If the Committee decides that such a basis exists, it shall request an advisory opinion of the Court, and the Secretary-General shall arrange to transmit to the Court the views of the person referred to in paragraph 1.

"3. If no application is made under paragraph 1 of this article, or if a decision to request an advisory opinion has not been taken by the Committee, within the periods prescribed in this article, the judgement of the Tribunal shall become final. In any case in which a request has been made for an advisory opinion, the Secretary-General shall either give effect to the opinion of the Court or request the Tribunal to convene specially in order that it shall confirm its original judgement, or give a new judgement, in conformity with the opinion of the Court. If not requested to convene specially, the Tribunal shall at its next session confirm its judgement or bring it into conformity with the opinion of the Court.

"4. For the purpose of this article, a Committee is established and authorized under paragraph 2 of Article 96 of the Charter to request advisory opinions of the Court. The Committee shall be composed of the Member States the representatives of which have served on the General

Committee of the most recent regular session of the General Assembly. The Committee shall meet at United Nations Headquarters and shall establish its own rules.

"5. In any case in which award of compensation has been made by the Tribunal in favour of the person concerned and the Committee has requested an advisory opinion under paragraph 2 of this article, the Secretary-General, if satisfied that such person will otherwise be handicapped in protecting his interests, shall within fifteen days of the decision to request an advisory opinion make an advance payment to him of one third of the total amount of compensation awarded by the Tribunal less such termination benefits, if any, as have already been paid. Such advance payment shall be made on condition that, within thirty days of the action of the Tribunal under paragraph 3 of this article, such person shall pay back to the United Nations the amount, if any, by which the advance payment exceeds any sum to which he is entitled in accordance with the opinion of the Court."

18. At its 1st meeting, on 16 October 1956, the Committee adopted provisional rules of procedure which were later amended on 25 October 1956, 21 January 1957 and 11 December 1974. At its twenty-second session, the Committee carried out a comprehensive review of its procedures and, at its 6th meeting, on 16 February 1983, adopted the current text of its rules of procedure set out in document A/AC.86/2/Rev.3 and Corr.1 (English only). On 30 July 1991, at the extended thirty-sixth Session, the Committee adopted a revised text of these rules but at the same time decided that they would govern the proceedings of the Committee in relation to the applications submitted with regard to the Administrative Tribunal judgements communicated on 31 July 1991 and thereafter by the Executive Secretary of the Tribunal to the parties to the proceedings before it. The revised rules were circulated on 31 July 1991 in document A/AC.86/2/Rev.4.

19. In accordance with the rules of procedure of the Committee all its deliberations, including the adoption of all decisions concerning applications, shall take place in private. The decisions of the Committee and the text of any questions to be addressed to the International Court of Justice, as well as the results of and the participants in any votes taken during the private deliberations, shall be formally announced in a public meeting, at which any member of the Committee may make a statement for the record. As provided in article XI of the rules of procedure of the Committee, sound recordings shall be prepared and kept of all proceedings of the Committee, in accordance with the practice of the United Nations. If the Committee requests an advisory opinion of the International Court of Justice in respect of an application, the Secretary, in accordance with paragraph 2 of article XI of the rules of procedure, shall prepare and transmit to the Court, to all members of the Committee and to the parties to the proceedings before the Administrative Tribunal, a verbatim record, in English and French, of the proceedings of the Committee in respect of that application, except for those in the private deliberations.

VI. INQUIRIES

20. Inquiries may be addressed to the Secretary of the Committee, room S-3420I, extension 35347.